

Montana Water Court  
PO Box 1389  
Bozeman, MT 59771-1389  
(406) 586-4364  
watercourt@mt.gov

IN THE WATER COURT OF THE STATE OF MONTANA  
YELLOWSTONE DIVISION  
SWEET GRASS - BASIN (43BV)

\*\*\*\*\*

CLAIMANT: CHMT Enterprises LLC

NOTICES OF INTENT TO APPEARS: Greycliff Ranch, LLC;  
J Bar Ranches, LLC

**CASE 43BV-0331-R-2023**

43BV 30071966

43BV 30071967

43BV 30071968

43BV 30071969

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above-stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

**MASTER'S REPORT**

FINDINGS OF FACT

1. CHMT Enterprises LLC (CHMT) is the record owner of claims 43BV 30071966, 43BV 30071967, 43BV 30071968, and 43BV 30071969.

2. Claims 43BV 30071966, 43BV 30071967, 43BV 30071968, and 43BV 30071969 were decreed with DNRC issue remarks:

**43BV 30071966:**

THE MEANS OF DIVERSION APPEARS TO BE INCORRECT. THE MEANS OF DIVERSION APPEARS TO BE A HEADGATE.

THIS INTERBASIN TRANSFER CLAIM WAS NOT INCLUDED IN THE 43BV BASIN TEMPORARY PRELIMINARY DECREE ISSUED 12/14/1984.

THE PERIOD OF DIVERSION APPEARS TO BE INCORRECT. THE PERIOD OF DIVERSION SHOULD BE APRIL 1 TO NOVEMBER 1.

THE PERIOD OF USE APPEARS TO BE INCORRECT. THE PERIOD OF USE SHOULD BE APRIL 1 TO NOVEMBER 1.

**43BV 30071967:**

THIS INTERBASIN TRANSFER CLAIM WAS NOT INCLUDED IN THE 43B BASIN TEMPORARY PRELIMINARY DECREE ISSUED 12/19/1984.

THE PERIOD OF DIVERSION APPEARS TO BE INCORRECT. THE PERIOD OF DIVERSION SHOULD BE APRIL 1 TO NOVEMBER 1

THE PERIOD OF USE APPEARS TO BE INCORRECT. THE PERIOD OF USE SHOULD BE APRIL 1 TO NOVEMBER 1

**43BV 30071968:**

THIS INTERBASIN TRANSFER CLAIM WAS NOT INCLUDED IN THE 43BV BASIN TEMPORARY PRELIMINARY DECREE ISSUED 12/19/1984.

THE PERIOD OF DIVERSION APPEARS TO BE INCORRECT. THE PERIOD OF DIVERSION SHOULD BE APRIL 1 TO NOVEMBER 1.

THE PERIOD OF USE APPEARS TO BE INCORRECT. THE PERIOD OF USE SHOULD BE APRIL 1 TO NOVEMBER 1.

**43BV 30071969:**

THIS INTERBASIN TRANSFER CLAIM WAS NOT INCLUDED IN THE 43B BASIN TEMPORARY PRELIMINARY DECREE ISSUED 01/18/1985.

THE PERIOD OF DIVERSION APPEARS TO BE INCORRECT. THE PERIOD OF DIVERSION SHOULD BE APRIL 1 TO NOVEMBER 1.

THE PERIOD OF USE APPEARS TO BE INCORRECT. THE PERIOD OF USE SHOULD BE APRIL 1 TO NOVEMBER 1.

3. Greycliff Ranch, LLC (Greycliff) filed Notices of Intent to Appear for claims 43BV 30071966, 43BV 30071967, 43BV 30071968, and 43BV 30071969. J Bar L Ranches, LLC (J Bar) filed Notices of Intent to Appear for claims 43BV 30071967 and 43BV 30071968.

4. A deadline was set for the parties to file documentation addressing the issue remarks and resolving the Notice of Intent to Appear concerns. (Doc.<sup>1</sup> 1.00).

5. J Bar withdrew its Notices of Intent to Appear for claims 43BV 30071967 and 43BV 30071968 “conditioned on the claims remaining the same as they are currently decreed with the exception of the period of use being changed to April 1 to November 1.” (Doc. 2.00).

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<sup>1</sup> “Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system.

6. Nothing was filed by CHMT resolving the issue remarks or by Greycliff addressing the Notice of Intent to Appear concerns.

7. An Order Setting Filing Deadline was issued setting the following deadlines:

- A deadline for Claimant CHMT to agree or disagree that the periods of diversion should be modified as described in the issue remarks.
- A deadline for J Bar to indicate whether its Notices of Intent to Appear concerns are resolved if the periods of diversion for claims 43BV 30071967 and 43BV 30071968 are modified to “May to November 1.”
- A deadline for Greycliff to indicate how its Notice of Intent to Appear concerns should be resolved.

(Doc. 3.00). The Order Setting Filing Deadline indicated that if Notice of Intent to Appear parties J Bar and Greycliff failed to file anything by the July 12, 2023 deadline, this Water Master would conclude the Notice of Intent to Appear party did not intend to pursue the Notices of Intent to Appear. The following language was included with the Order:

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R.

8. On June 9, 2023, J Bar filed its Clarification of Previously Filed Conditional Withdrawal of Notices of Intent to Appear. (Doc. 4.00). The June 9, 2023 filing stated that J Bar conditions the withdrawals of its Notices of Intent to Appear to claims 43BV 30071967 and 43BV 30071968 conditioned on the claims remaining the same as decreed “with the exception of the period of diversion and period of use” and provided that the periods of diversion and periods of use be decreed as “no larger than April 1 to November 4, with any shorter period of use between April 1 to November also begin acceptable to J Bar L.”

9. On June 23, 2023, Aaron Young of CHMT Enterprises, LLC filed a statement agreeing that the periods of diversion and periods of use for the claims in this Case be modified to end November 1 instead of November 4. (Doc. 5.00).

10. Nothing was filed by Greycliff.

## PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court is required to address all issue remarks that appear on a claim as well as any objections the claim receives. Sections 85-2-233, 85-2-247, and 85-2-248, MCA.
2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R., *Nelson v. Brooks*, 2014 MT 120; 375 Mont.86, 95; 329 P.3d 558, 564.
3. Pursuant to Rule 22, W.R.Adj.R., if a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing or fails to comply with an order issued by the Water Court, the Water Court may issue such orders of sanction with regard thereto as are just.
4. The notice-type issue remarks decreed on the claims in this Case should be removed from the claims.

## RECOMMENDATIONS

1. The periods of diversion and periods of use for each of the claims in this Case should be modified to end on November 1 instead of November 4.
2. The issue remarks should be removed from each of the claims in this Case.
3. Greycliff's Notices of Intent to Appear filed for claims 43BV 30071966, 43BV 30071967, 43BV 30071968, and 43BV 30071969 should be dismissed.

Post Decree Abstracts of Water Right Claims are served with the Report for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service Via Electronic Mail:**

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**Service via USPS Mail:**

CHMT Enterprises, LLC  
c/o Kevin Stein  
142 Gretchen Gulch Ln  
Big Timber, MT 59011-8500

~~Greycliff Ranch, LLC  
c/o Scott Orazem  
142 Gretchen Gulch Lane  
Big Timber, MT 59011~~

***Forwarding Address Not Found***

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
SWEET GRASS CREEK  
BASIN 43BV**

**Water Right Number:** 43BV 30071966 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** CHMT ENTERPRISES LLC  
% KEVIN STEIN  
142 GRETCHEN GULCH LN  
BIG TIMBER, MT 59011 8500

**\*Priority Date:** JUNE 29, 1973  
**\*Type of Historical Right:** DECREED  
**\*Purpose (use):** IRRIGATION  
**Irrigation Type:** FLOOD  
**\*Flow Rate:** 4.02 CFS  
**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.  
**Climatic Area:** 2 - MODERATELY HIGH  
**\*Maximum Acres:** 55.00  
**\*Source Name:** SWEET GRASS CREEK  
**Source Type:** SURFACE WATER  
**\*Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWNESE	30	1N	16E	SWEET GRASS
<b>Period of Diversion:</b>	APRIL 1 TO NOVEMBER 1					
<b>Diversion Means:</b>	PUMP					
<b>Ditch Name:</b>	HARRISON DITCH					
<b>*Period of Use:</b>	APRIL 1 TO NOVEMBER 1					
<b>*Place of Use:</b>						

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	55.00		NE	16	1S	16E	SWEET GRASS
<b>Total:</b>	55.00						

**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

30071966      30071967      30071968      30071969

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 43BV 114041-00.

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
SWEET GRASS CREEK  
BASIN 43BV**

**Water Right Number:** 43BV 30071967 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** CHMT ENTERPRISES LLC  
% KEVIN STEIN  
142 GRETCHEN GULCH LN  
BIG TIMBER, MT 59011 8500

**\*Priority Date:** SEPTEMBER 1, 1878  
**\*Type of Historical Right:** DECREED  
**\*Purpose (use):** IRRIGATION  
**Irrigation Type:** FLOOD  
**\*Flow Rate:** 1.10 CFS  
**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.  
**Climatic Area:** 2 - MODERATELY HIGH  
**\*Maximum Acres:** 55.00  
**\*Source Name:** SWEET GRASS CREEK  
**Source Type:** SURFACE WATER  
**\*Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWNESE	30	1N	16E	SWEET GRASS
<b>Period of Diversion:</b>	MAY 1 TO NOVEMBER 1					
<b>Diversion Means:</b>	HEADGATE					
<b>Ditch Name:</b>	HARRISON DITCH					
<b>*Period of Use:</b>	MAY 1 TO NOVEMBER 1					
<b>*Place of Use:</b>						

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	55.00		NE	16	1S	16E	SWEET GRASS
<b>Total:</b>	55.00						

**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

30071966      30071967      30071968      30071969

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 43BV 114042-00.

THIS APPROPRIATION OF WATER TAKES WATER FROM THE SWEET GRASS CREEK DRAINAGE (BASIN 43BV ) AND USES IT IN THE YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK DRAINAGE (BASIN 43B ). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.



**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**SWEET GRASS CREEK**  
**BASIN 43BV**

**Water Right Number:** 43BV 30071968 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** CHMT ENTERPRISES LLC  
% KEVIN STEIN  
142 GRETCHEN GULCH LN  
BIG TIMBER, MT 59011 8500

**\*Priority Date:** SEPTEMBER 12, 1881

**Type of Historical Right:** DECREED

**\*Purpose (use):** IRRIGATION  
**Irrigation Type:** FLOOD

**\*Flow Rate:** 26.93 GPM

**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 2 - MODERATELY HIGH

**\*Maximum Acres:** 55.00

**\*Source Name:** SWEET GRASS CREEK  
**Source Type:** SURFACE WATER

**\*Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWNESE	30	1N	16E	SWEET GRASS
<b>Period of Diversion:</b>	MAY 1 TO NOVEMBER 1					
<b>Diversion Means:</b>	HEADGATE					
<b>Ditch Name:</b>	HARRISON DITCH					

**\*Period of Use:** MAY 1 TO NOVEMBER 1

**\*Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	55.00		NE	16	1S	16E	SWEET GRASS
<b>Total:</b>	55.00						

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**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

30071966      30071967      30071968      30071969

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 43BV 114043-00.

THIS APPROPRIATION OF WATER TAKES WATER FROM THE SWEET GRASS CREEK DRAINAGE (BASIN 43BV ) AND USES IT IN THE YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK DRAINAGE (BASIN 43B ). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
SWEET GRASS CREEK  
BASIN 43BV**

**Water Right Number:** 43BV 30071969 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** CHMT ENTERPRISES LLC  
% KEVIN STEIN  
142 GRETCHEN GULCH LN  
BIG TIMBER, MT 59011 8500

**\*Priority Date:** JUNE 29, 1973  
**\*Type of Historical Right:** DECREED  
**\*Purpose (use):** IRRIGATION  
**Irrigation Type:** FLOOD  
**\*Flow Rate:** 0.50 CFS  
**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.  
**Climatic Area:** 2 - MODERATELY HIGH  
**\*Maximum Acres:** 55.00  
**\*Source Name:** SWEET GRASS CREEK  
**Source Type:** SURFACE WATER  
**\*Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWNESE	30	1N	16E	SWEET GRASS
<b>Period of Diversion:</b>	APRIL 1 TO NOVEMBER 1					
<b>Diversion Means:</b>	HEADGATE					
<b>Ditch Name:</b>	HARRISON DITCH					
<b>*Period of Use:</b>	APRIL 1 TO NOVEMBER 1					
<b>*Place of Use:</b>						

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	55.00		NE	16	1S	16E	SWEET GRASS
<b>Total:</b>	55.00						

**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

30071966      30071967      30071968      30071969

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 43BV 114044-00.

THIS APPROPRIATION OF WATER TAKES WATER FROM THE SWEET GRASS CREEK DRAINAGE (BASIN 43BV ) AND USES IT IN THE YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK DRAINAGE (BASIN 43B ). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.